

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA DEPARTMENT OF HUMAN SERVICES

In the Matter of the License  
Revocation of John and  
Kathy Erlandson

FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Barbara L. Neilson on Thursday, September 28, 1995, at 9:30 a.m. in Courtroom 6 of the Office of Administrative Hearings in Minneapolis, Minnesota. Catherine Margaret Meek, Assistant Attorney General, Suite 900, 445 Minnesota Street, St. Paul, Minnesota 55101-2127, appeared on behalf of the Department of Human Services ("the Department"). There was no appearance by or on behalf of John and Kathy Erlandson.

This Report is a recommendation, not a final decision. The Commissioner of Human Services will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Maria R. Gomez, Commissioner, Minnesota Department of Human Services, 2nd Floor Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3815, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether the Licensees' license to provide family foster care should be revoked because of the conduct alleged in the Notice of and Order for Hearing and Prehearing Conference and Amended Notice of and Order for Hearing and Prehearing Conference.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Hearing and Prehearing Conference was served on John and Kathy Erlandson by first-class mail on July 27, 1995.
2. The Notice of and Order for Hearing and Prehearing Conference contained the following language:

Pursuant to Minn. R. 1400.6000, failure of the parties to appear at the hearing in the above-captioned matter may result in the allegations

contained herein to be taken as true. This means that the Agency's action will be upheld.

3. The Notice of and Order for Hearing and Prehearing Conference indicated that a prehearing conference in the case would be held on September 12, 1995. That date was later rescheduled to September 28, 1995, at 9:30 a.m. at the Office of Administrative Hearings in Minneapolis, Minnesota.

4. An Amended Notice of and Order for Hearing and Prehearing Conference was served by first-class mail on the Licensees on August 9, 1995. The Amended Notice indicated that the prehearing conference would be held on September 28, 1995, at 9:30 a.m. at the Office of Administrative Hearings in Minneapolis, Minnesota.

5. The Licensees did not file any Notice of Appearance with the Administrative Law Judge or make any prehearing request for a continuance or any other relief. They did not personally appear at the prehearing conference in this matter scheduled for September 28, 1995, or have an appearance made on their behalf. The Administrative Law Judge left a message on the Licensees' answering machine on September 28, 1995, regarding their failure to appear at the prehearing conference. As of the date of this Report, the Licensees had not contacted the Administrative Law Judge concerning their failure to appear at the prehearing conference.

6. Because the Licensees failed to appear at the prehearing conference in this matter, they are in default.

7. Pursuant to Minn. Rules pt. 1400.6000, the allegations contained in the Notice of and Order for Hearing and Prehearing Conference and Amended Notice of and Order for Hearing and Prehearing Conference are hereby taken as true and incorporated into these Findings of Facts.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Human Services have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 245A.05, and 245A.08 (1994).

2. The Notice of Hearing issued by the Department was proper and the Department has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Licensees, having made no appearance at the prehearing conference and not requesting any continuance or other relief, are in default. Pursuant to Minn. Rules pt. 1400.6000 (1993), the allegations taken in the Notice of and Order for Hearing and Prehearing Conference and Amended Notice of and Order for Hearing and Prehearing Conference are hereby taken as true.

4. The Licensees have violated Minn. Rules pts. 9545.0070, 9545.0090, and 9545.0100 (1993).

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Commissioner of Human Services revoke the family foster care license of John and Kathy Erlandson.

Dated this 5th day of October, 1995.

s/ Barbara L. Neilson

---

BARBARA L. NEILSON

Administrative Law Judge

Reported: Default.